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3 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
4 **OF THE STATE OF WASHINGTON**

5 In the Matter of Enforcement Action Against:	PDC CASE NO. 07-011
6 Ken Berger,	07-013
7 Respondent	FINAL ORDER
8	

9 This matter came for hearing before the Washington State Public Disclosure
10 Commission on October 31, 2006 at the John L. O'Brien Building, Hearing Room D, 504
11 15th Avenue SW, Olympia, Washington. Those present included Commission members Bill
12 Brumsickle, Vice-Chair; Ken Schellberg, Secretary; and, Earl Tilly, Member. Also present
13 were PDC Executive Director Vicki Rippie; Bruce Marvin, Assistant Attorney General
14 representing Commission staff; and Mark Lamb, attorney for Ken Berger, Respondent.
15 Nancy Krier, Senior Assistant Attorney General and counsel for the Commission, was also
16 present. The proceedings were open to the public and were recorded.

17 This matter involved allegations that the Respondent, a current member of the
18 Monroe City Council, committed two violations of RCW 42.17.120 through his activities in
19 the 2001 Monroe City Council election and the 2003 Monroe City Council election.

20 PDC Staff submitted to the Commission the Notice of Administrative Charges dated
21 September 29, 2006 and the PDC Report of Investigation dated September 29, 2006 (with
22 exhibits). The parties submitted to the Commission a proposed Stipulation as to Facts,
23 Violations and Penalty (Stipulation) dated October 24, 2006. The parties also made oral
24 presentations to the Commission.

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1 Following consideration of the written and oral submissions, the Commission voted
2 to accept the Stipulation as modified at the request of the Commission and with the
3 agreement of the parties.

4 **I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

5 Based upon the Stipulation as modified herein and accepted by the Commission,
6 which is hereby attached and incorporated by reference, the Commission finds:

7 The Jurisdiction, Facts, Violations, Penalty, and Reservation of Rights are
8 established as provided in the Stipulation.

10 **II. ORDER**

11 Based upon the findings and conclusions, the Commission orders that:

12 1. The Stipulation is modified with the agreement of the parties to include the
13 following provision:

14 Mr. Berger agrees to invite the PDC staff to the City of Monroe to
15 conduct training related to campaign finance reporting obligations. Such
16 training is to be conducted no later than August 2007. Mr. Berger agrees
that this training should be available to local elected officials and the general
public.

17 2. The Stipulation as modified is accepted.

18 3. The Respondent is assessed civil penalties and costs as provided in the
19 Stipulation in a total amount of \$20,000, payable 90 days from the date of the entry of this
20 order.

22 **III. APPEALS**

23 **RECONSIDERATION OF FINAL ORDER - COMMISSION**

24 Any party may ask the Commission to reconsider this final order. Parties must
25 place their requests for reconsideration in writing, include the specific grounds or reasons
26 for the request, and deliver the request to the Public Disclosure Commission Office within

1 **TWENTY-ONE (21) BUSINESS DAYS** of the date that the Commission serves this order
2 upon the party. WAC 390-37-150. Service by the Commission on a party is accomplished
3 on the date of mailing by U.S. mail if the order is mailed, or the date of personal service if
4 personal service is made. RCW 34.05.010(19). The Commission orders are generally
5 mailed via U.S. mail.
6

7 Pursuant to WAC 390-37-150, the Public Disclosure Commission is deemed to have
8 denied the petition for reconsideration if, within twenty (20) business days from the date the
9 petition is filed, the Commission does not either dispose of the petition or serve the parties
10 with written notice specifying the date by which it will act on the petition. Pursuant to
11 RCW 34.05.470(5), the Respondent is not required to ask the Public Disclosure
12 Commission to reconsider the final order before seeking judicial review by a superior court.
13

14 **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

15 Pursuant to RCW 42.17.395(5), a **final order** issued by the Public Disclosure
16 Commission is subject to judicial review under the Administrative Procedures Act, chapter
17 34.05 RCW. The procedures are provided in RCW 34.05.510 - .598. Pursuant to RCW
18 34.05.542(2), a petition for judicial review must be filed with the superior court in Thurston
19 County or the petitioner's county of residence or principal place of business. The petition
20 for judicial review must be served on the Public Disclosure Commission and any other
21 parties within **30 days** of the date that the Public Disclosure Commission serves this final
22 order on the parties. RCW 34.05.542 (4) provides: "Service of the petition on the agency
23 shall be by delivery of a copy of the petition to the office of the director, or other chief
24 administrative officer or chairperson of the agency, at the principal office of the agency.
25 Service of a copy by mail upon the other parties of record and the office of the attorney
26

1 general shall be deemed complete upon deposit in the United States mail, as evidenced by
2 the postmark.”

3 If reconsideration is properly sought, the petition for judicial review must be served
4 on the Public Disclosure Commission and any other parties within thirty (30) days after the
5 Commission acts on the petition for reconsideration.
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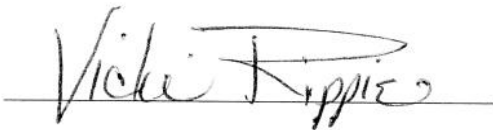
7 **ENFORCEMENT OF FINAL ORDERS**

8 The Commission will seek to enforce this final order in superior court under RCW
9 42.17.395-.397, and recover legal costs and attorney’s fees, if the penalty remains unpaid
10 and no petition for judicial review has been filed under chapter 34.05 RCW. This action
11 will be taken without further order by the Commission.

12 The Executive Director is authorized to enter this order on behalf of the Commission.

13
14 DATED THIS 13th day of November, 2006.

15 FOR THE COMMISSION:

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17 

18 VICKI RIPPIE, Executive Director
19

20 *Attachment:* Stipulation as to Facts, Violations and Penalty dated October 24, 2006

21 *Date of mailing:*
22 _____

23 *Copy mailed to:*

24 Mark Lamb, Counsel for Respondent
25 Ken Berger, Respondent
26 Bruce Marvin, Assistant Attorney General
Nancy Krier, Senior Counsel, Attorney General’s Office